

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Volha Shauchenka	Team: Squad #8	CCRB Case #: 201709092	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 10/13/2017 8:30 AM	Location of Incident: Inside § 87(2)(b) 32 PCT SH; § 87(2)(b) § 87(2)(b)	Precinct: 32	18 Mo. SOL 4/13/2019	EO SOL 4/13/2019	
Date/Time CV Reported Mon, 10/16/2017 5:14 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 10/16/2017 5:14 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Daniel Wadolowski	09633	954413	032 PCT
2. POM Lei Cui	28684	945634	032 PCT
3. SGT Isaias Martinez	828	927792	INT CIS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Rosa Montesdeoca	01962	949356	032 PCT
2. SGT Anlu Rodriguez	03118	936655	032 PCT
3. POF Jennifer Chacon	01905	934548	032 PCT
4. POF Dawn Waller	11581	942684	032 PCT
5. POF Sajma Hot	05372	960681	032 PCT
6. POM Nicholas Corso	19809	958438	032 PCT
7. POM Noe Tattegrain	15258	956293	032 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Lei Cui	Force: Inside § 87(2)(b) in Manhattan, Police Officer Lei Cui used physical force against § 87(2)(b)	
B.SGT Isaias Martinez	Abuse: Inside the 32nd Precinct stationhouse, Sergeant Isaias Martinez frisked § 87(2)(b)	
C.POM Daniel Wadolowski	Abuse: Inside the 32nd Precinct stationhouse, Police Officer Daniel Wadolowski frisked § 87(2)(b)	
D.SGT Isaias Martinez	Abuse: Sergeant Isaias Martinez entered § 87(2)(b) in Manhattan.	
E.POM Daniel Wadolowski	Abuse: Police Officer Daniel Wadolowski entered § 87(2)(b) in Manhattan.	
F.SGT Isaias Martinez	Abuse: Sergeant Isaias Martinez searched § 87(2)(b) in Manhattan.	
G.POM Daniel Wadolowski	Abuse: Police Officer Daniel Wadolowski searched § 87(2)(b) in Manhattan.	

## Case Summary

On October 16, 2017, § 87(2)(b) filed this complaint on behalf of herself and her alleged cousin § 87(2)(b) via the CCRB call processing system.

On October 13, 2017, at approximately 8:55 a.m., inside § 87(2)(b) in Manhattan, PO Lei Cui of the 32<sup>nd</sup> Precinct, who currently holds the rank of sergeant, allegedly placed § 87(2)(b) against the wall and applied pressure to her mid-back while she was telling him she was pregnant (**Allegation A: Force**, § 87(2)(g)). On the same date, at approximately 10:30 a.m., inside the 32<sup>nd</sup> Precinct stationhouse, Sgt. Isaias Martinez of Intelligence Criminal Section and PO Daniel Wadolowski of the 32<sup>nd</sup> Precinct, who currently holds the rank of detective, frisked § 87(2)(b) (**Allegations B and C: Abuse of Authority**, § 87(2)(g)). Sgt. Martinez and PO Wadolowski also entered and searched § 87(2)(b) s § 87(2)(b) at § 87(2)(b) in Manhattan (**Allegations D, E, F, and G: Abuse of Authority**, § 87(2)(g)).

Four clips from four residential surveillance cameras installed at § 87(2)(b) were obtained by the investigation [BR 12, *Originals*].

## Findings and Recommendations

### **Allegation (A) Force: Inside § 87(2)(b) in Manhattan, Police Officer Lei Cui used physical force against § 87(2)(b)**

It is undisputed that on the incident date, at approximately 8:30 a.m., § 87(2)(b) was involved in an altercation with § 87(2)(b) at the corner of 7<sup>th</sup> Avenue and West 150<sup>th</sup> Street in Manhattan. § 87(2)(b) alleged that § 87(2)(b) assaulted her and called 911. § 87(2)(b) headed home from the scene and § 87(2)(b) followed her. PO Rosa Montesdeoca, PO Jennifer Chacon, PO Cui, PO Sajma Hot, Sgt. Anlu Rodriguez, PO Nicholas Corso and other officers of the 32<sup>nd</sup> Precinct arrived at § 87(2)(b) s apartment building where she was arrested in the lobby by PO Montesdeoca and PO Chacon.

When interviewed at the CCRB, § 87(2)(b) alleged that when the officers arrived at her apartment, she was in the bathroom and her cousin, § 87(2)(b) who was visiting her apartment to help her with her children, told the officers she was not at home [BR 04]. When she left the bathroom, § 87(2)(b) informed her that some officers wanted to talk to her. She went to the lobby of the building to tell her side of the story. § 87(2)(b) extended her arm pointing at § 87(2)(b) who was standing outside and PO Cui immediately grabbed her arm and placed it behind her back. PO Cui proceeded to place § 87(2)(b) against the wall by holding her arm. § 87(2)(b) had been standing inches away from the wall initially and her chest and stomach touched it. PO Cui applied pressure to § 87(2)(b) s mid-back with his hand and § 87(2)(b) informed him she was pregnant and was not resisting. § 87(2)(b) noted that she was approximately one month and two weeks pregnant at the time. PO Montesdeoca and PO Chacon assisted PO Cui in placing § 87(2)(b) in handcuffs, while she yelled that she was pregnant a few more times, after which the officers turned § 87(2)(b) around. She was arrested and transported to the 32<sup>nd</sup> Precinct stationhouse.

§ 87(2)(b) alleged that later in the day she started experiencing vaginal bleeding, which she attributed to PO Cui placing her against the wall. On October 14, 2017, § 87(2)(b) was diagnosed with ectopic pregnancy at § 87(2)(b) in Manhattan but was not told what caused the bleeding. On an unknown date in late October 2017, § 87(2)(b) went to

§ 87(2)(b) in Manhattan since she continued experiencing abdominal pain and vaginal bleeding. Her pregnancy ultimately had to be terminated at the hospital. During her interview, § 87(2)(b) provided an undated discharge instruction regarding ectopic pregnancy and a Methotrexate injection given to her at § 87(2)(b) [PD 01]. On November 17, 2017, § 87(2)(b) went to § 87(2)(b) in Manhattan since she continued to experience the same symptoms which were determined to be caused by the medical procedure performed to her earlier. § 87(2)(b) stated she suffered extensive psychological trauma due to the incident and had to seek counseling. § 87(2)(b) was inconsistent in describing the type of force used towards her by the officers and attributing it to various officers in her preceding statements to the CCRB [BR 01, 02, 03].

Two subpoenas from § 87(2)(b) in Manhattan were returned with negative results since § 87(2)(b) did not obtain treatment there between § 87(2)(b) [PD 03]. Subpoena sent to § 87(2)(b) in Manhattan was also returned with negative results as § 87(2)(b) did not obtain treatment there between § 87(2)(b) [PD 03]. During a follow-up call, § 87(2)(b) added that either at the end of October or in the beginning of November 2017, she also went to “§ 87(2)(b) in Manhattan. She was requested to sign additional HIPAA forms and stated she mailed them to the undersigned on January 24, 2018. As of November 29, 2018, the letter containing these forms was not delivered to the CCRB.

According to § 87(2)(b)'s medical records from § 87(2)(b) in Manhattan, she was admitted to the emergency room on November 18, 2017 [PD 02]. She was brought there in handcuffs by NYPD. Her chief complaints were abdominal pain, sore throat and fever. The records note that § 87(2)(b) was pregnant and reported ectopic pregnancy from August 1, 2017. § 87(2)(b) reported to a registered nurse that she had groin pain for the past two days and took a blood pregnancy test two weeks prior that returned positive results. § 87(2)(b) had seven previous pregnancies, one of which was ectopic, and denied vaginal bleeding and spotting. During her visit, she tested negative for a pregnancy hormone and was determined to be not pregnant by the doctor. She refused an abdominal and pelvic CT scan. § 87(2)(b)'s discharge diagnosis was unspecified abdominal pain and she was prescribed medication that treats urinary tract infection, for which she tested positive.

No statement was obtained from § 87(2)(b) as his criminal attorney did not wish for him to provide it pending litigation of his criminal case.



§ 87(2)(b) Ace 1.mp4

[BR 33]

Subclip from Camera 03, Vestibule

Video evidence from the Vestibule surveillance camera shows § 87(2)(b) talking to PO Cui, PO Montesdeoca, PO Chacon and other officers near the entrance to the building between 9 seconds and 6:23 minutes [BR 33]. At 11 seconds, PO Cui is seen moving § 87(2)(b)'s arm away as it is extended towards him. At 6:25 minutes, PO Chacon takes § 87(2)(b)'s arms and places them behind her back. § 87(2)(b) is standing with her side towards the wall at the time. At 6:52 minutes, § 87(2)(b) faces the wall without making

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physical contact with it and PO Montesdeoca places handcuffs on her. PO Cui is not present in the lobby at the time. At 7:16 minutes, § 87(2)(b) leans on the wall with her back and then with her right side. At 8:52 minutes, § 87(2)(b) is escorted outside by PO Montesdeoca. The video captured the entire handcuffing of § 87(2)(b) and did not depict any officers placing her against the wall with her stomach or applying pressure on her mid-back.

PO Montesdeoca's CCRB testimony was consistent with the video evidence [BR 27].

§ 87(2)(g)

**Allegation (B) Abuse of Authority: Inside the 32nd Precinct stationhouse, Sergeant Isaias Martinez frisked § 87(2)(b)**

**Allegation (C) Abuse of Authority: Inside 32nd Precinct stationhouse, Police Officer Daniel Wadolowski frisked § 87(2)(b)**

§ 87(2)(b) stated while her arrest was being processed at the stationhouse, at approximately 9:00 a.m. – 9:30 a.m., she was able to observe § 87(2)(b) from the holding cell and believed he came to inquire about her [BR 04]. Approximately 30 minutes later, she observed § 87(2)(b) in front of the desk with his coat open and without his bandana. Since he never takes it off, § 87(2)(b) believed he was in handcuffs. § 87(2)(b) was then taken upstairs to the Detective Squad.

During his first CCRB interview on May 16, 2018, PO Wadolowski refused to answer detailed questions about the incident on the orders of the United States Attorney's Office of the Southern District [BR 28]. He was subsequently reinterviewed on September 5, 2018 [BR 29]. PO Wadolowski testified that he recognized § 87(2)(b) when he came to the stationhouse because he had three distinct tattoos on his face. § 87(2)(e), § 87(2)(f)

§ 87(2)(b) In addition, PO Wadolowski had a video of § 87(2)(b) blowing alleged marijuana smoke in a dog's face, thus engaging in abusive behavior towards the dog. PO Wadolowski obtained § 87(2)(b) pedigree from PO Montesdeoca and PO Chacon and learned from them that § 87(2)(b) was § 87(2)(b)'s boyfriend. PO Wadolowski checked § 87(2)(b) identity in a computer database, which revealed his address, which he did not recall at the time, as well as the fact that he was either on parole. PO Wadolowski informed Sgt. Martinez of his findings and both of them approached § 87(2)(b) who was in the lobby of the stationhouse. The officers identified themselves and PO Wadolowski explained to § 87(2)(b) that he wanted to address his actions towards the dog in the video he had. At some point, either PO Wadolowski or Sgt. Martinez asked § 87(2)(b) if they could pat him down because they also had information he could be armed. Although § 87(2)(b) was not happy about it, he agreed to be patted down and said he had nothing on him. Both officers patted § 87(2)(b) entire body "from head to toe." During the pat down, PO Wadolowski felt some keys on § 87(2)(b) and did not remove anything from him. PO Wadolowski explained that his decision to pat § 87(2)(b) down was based on the prior information about him and he did not observe anything on his body that looked like a weapon. § 87(2)(b) was wearing jeans and a winter jacket but PO Wadolowski did not recall how they fit. PO Wadolowski's CCRB testimony was largely consistent with his testimony at the U.S. Federal

Court of the Southern District but was significantly less detailed [BR 31]. He stated that the video with § 87(2)(b) was observed on Snapchat on September 23, 2017 § 87(2)(e), § 87(2)(f)

§ 87(2)(b) Wadolowski responded to the location of § 87(2)(b) sighting and observed § 87(2)(b) with a small child enter § 87(2)(b) § 87(2)(b). Since he was with a child and other civilians were in the vicinity, PO Wadolowski did not approach § 87(2)(b) out of fear for his safety. He also initially testified that he did not approach § 87(2)(b) on September 29, 2017 § 87(2)(e). He then changed his testimony during the cross-examination, stating he did not approach § 87(2)(b) solely for safety concerns.

Sgt. Martinez's CCRB testimony was largely consistent with PO Wadolowski's testimony with the following exceptions [BR 32]. He explained that both he and PO Wadolowski came across a Snapchat video depicting § 87(2)(b) actions during their normal course of business approximately a month and a half before the incident date. § 87(2)(e), § 87(2)(f)

On the same day, PO Wadolowski went to the location of § 87(2)(b) sighting and observed him walk into § 87(2)(b) § 87(2)(b) with a small child. Due to the fact that § 87(2)(b) was with a child and there were other civilians in the vicinity, PO Wadolowski did not approach him. No I-Cards, warrants or complaint reports were generated for § 87(2)(b) following these incidents. On October 13, 2018, Sgt. Martinez learned about § 87(2)(b) presence and identity from PO Wadolowski. Before approaching § 87(2)(b) Sgt. Martinez told PO Wadolowski that they would pat him down. He did not intend to investigate § 87(2)(b) at that point and just wanted to pat him down for safety purposes. Upon approach, Sgt. Martinez informed § 87(2)(b) they had information he was carrying a gun and since he was at the stationhouse, they would pat him down. Officers asked § 87(2)(b) to stand up and although he seemed irritated, he did not verbally object and stood up. Both officers patted § 87(2)(b) and Sgt. Martinez patted his waist area and outerwear specifically. Sgt. Martinez did not recall what § 87(2)(b) was wearing and did not observe anything that could have looked like a weapon on him. Sgt. Martinez reiterated that his decision to pat § 87(2)(b) down was based on the prior information he had received. Sgt. Martinez's CCRB testimony was largely consistent with his testimony at the U.S. Federal Court of the Southern District [BR 31].

PO Montesdeoca confirmed that she obtained § 87(2)(b) name at the stationhouse from him and provided it to PO Wadolowski, who inquired with her if she knew who he was [BR 27]. PO Waller confirmed that she observed PO Wadolowski and Sgt. Martinez approach § 87(2)(b) at the stationhouse lobby but was unaware what conversation they had nor could she attest to § 87(2)(b) demeanor during it [BR 30].

According to NYPD Patrol Guide Procedure 212-11, an officer may frisk an individual when he/she reasonably believes that a person is armed and dangerous [BR 36]. This includes situations when a person has committed, is committing or is about to commit a crime or when an officer observes something on a person that can reasonably look like a weapon. In People v.

Stephens, 139 A.D.2d 412, responding to call that a black male wearing grey pants and grey jacket was standing in front of a motor lodge with a gun within a short time frame, officers approached a male who fit the description standing in the lobby [BR 37]. They were not justified in immediately frisking him without asking him or anyone else any investigative questions. However, they did rightfully approach the perpetrator pursuant to common-law right to inquire.

§ 87(2)(g)

**Allegation (D) Abuse of Authority: Sergeant Isaias Martinez entered § 87(2)(b) in Manhattan.**

**Allegation (E) Abuse of Authority: Police Officer Daniel Wadolowski entered § 87(2)(b) in Manhattan.**

**Allegation (F) Abuse of Authority: Sergeant Isaias Martinez searched § 87(2)(b) in Manhattan.**

**Allegation (G) Abuse of Authority: Police Officer Daniel Wadolowski searched § 87(2)(b) in Manhattan.**

§ 87(2)(b) stated that when she was released from police custody, she was informed she had to wait for her apartment keys [BR 04]. She inquired why since she knew that § 87(2)(b) was in possession of the keys and was informed that some officers were at her apartment conducting a search. At approximately 2:00 p.m., PO Wadolowski entered the stationhouse with a clear “biohazard” bag containing a firearm and later handed § 87(2)(b) the keys. He then made her write a statement acknowledging their receipt in his memo book. PO Wadolowski stated that he went to her apartment because during his conversation with the Detective Squad, § 87(2)(b) gave him permission to do so and stated he had been living there for either seven months or years. When § 87(2)(b) returned home, she found it in disarray with various items thrown around and taken out of the cabinets. A mattress in one of the rooms was sideways and clothes were thrown around. § 87(2)(b) provided several pictures of the apartment [See photos BR 06 – 10].

PO Wadolowski stated that after the pat-down, he, Sgt. Martinez and § 87(2)(b) went into the muster room to continue their conversation [BR 29]. All three of them spoke about the video and the gun but PO Wadolowski did not recall the specific details of the conversation or questions he asked. During the talk, § 87(2)(b) expressed remorse about his action towards the dog and at some point, after either PO Wadolowski or Sgt. Martinez asked if he had a gun, § 87(2)(b) stated he had it in a drawer of his dresser in his § 87(2)(b) at § 87(2)(b) where he lives with his girlfriend and her three children. PO Wadolowski did not take further steps to verify § 87(2)(b)

§ 87(2)(b) residence as his acknowledgment was sufficient to him and he already knew § 87(2)(b) identity. § 87(2)(b) did not mention whether he owned the apartment or how long he had been living there. PO Wadolowski did not recall if he ever checked § 87(2)(b) physical identification card or whether he had one on him. § 87(2)(b) subsequently signed a consent to search form allowing the officers to search the apartment. PO Wadolowski stated that it is explained on the consent to search form that one can refuse to sign it and he did not recall if that information was provided verbally to § 87(2)(b). § 87(2)(b) informed PO Wadolowski that he had keys to the apartment, which PO Wadolowski used to gain access. The entire conversation lasted for 30-40 minutes and § 87(2)(b) was free to leave and was only handcuffed after the form was signed. PO Wadolowski informed § 87(2)(b) that since he agreed to take the officers to the apartment where a loaded gun can be recovered, they would feel safer if they handcuff him. § 87(2)(b) replied, "Ok, no problem." § 87(2)(b) PO Wadolowski, and Sgt. Martinez together with an additional unidentified unit went to the apartment. Inside, § 87(2)(b) directed the officers towards the dresser in the bedroom where PO Wadolowski discovered a semi-automatic firearm. As soon as the firearm was recovered, § 87(2)(b) was considered under arrest. No other areas of the apartment were searched by any other officers, including PO Wadolowski. However, PO Wadolowski went into another room to check on the dog and it appeared to be fine. § 87(2)(b) never revoked his consent after the officers' entry. § 87(2)(b) was transported to the stationhouse to be debriefed by the Detective Squad, and Manhattan Evidence Collection Team processed the gun. PO Wadolowski confirmed he later returned the keys to § 87(2)(b) at the stationhouse and she confirmed that § 87(2)(b) was her boyfriend and they were living together. PO Wadolowski's CCRB statement was consistent with his court testimony although was less detailed [BR 31].

Sgt. Martinez statement was consistent with that of PO Wadolowski apart from the following details [BR 32]. According to him, the video was shown to § 87(2)(b) after the pat down to make it apparent to him that the officers had a reason to approach him. After watching the video, § 87(2)(b) calmed down and became apologetic. He asked the officers not to show the video to his parole officer and brought this up on his own volition. Since § 87(2)(b) did not leave and seemed engaged, Sgt. Martinez assumed that he wanted to continue the conversation with the officers. Since the three of them were in a public area, Sgt. Martinez called § 87(2)(b) into the muster room located in the private area of the stationhouse. Sgt. Martinez had no specific intention at that point and explained that his decision to move the conversation into a private room was based solely on § 87(2)(b) interest. Sgt. Martinez informed § 87(2)(b) that since he knew § 87(2)(b) identity and place of residence, he intended to continue his investigation, which could ultimately lead to a search warrant, but there were other options. § 87(2)(b) asked Sgt. Martinez not to involve § 87(2)(b) and Sgt. Martinez informed him since the information was specific to him, a consent to search was another option. Sgt. Martinez was the one who asked § 87(2)(b) where the gun was, and he provided that information. Sgt. Martinez noted that during the conversation § 87(2)(b) was not considered in police custody and was free to leave. However, he never asked to leave nor did the officers explain to him he could do so. Sgt. Martinez stated after the consent to search option was presented to § 87(2)(b) he agreed to sign it and was not threatened before he signed it. Although Sgt. Martinez went to the Detective Squad when § 87(2)(b) filled out the form, he stated he explained to § 87(2)(b) he could refuse to grant his consent. § 87(2)(b) reiterated he understood and requested again not to notify his parole officer or to involve § 87(2)(b). Sgt. Martinez agreed on the condition that § 87(2)(b) allowed the officers to check on the dog, which § 87(2)(b) accepted. Eventually, Sgt. Martinez informed § 87(2)(b) he would be handcuffed for safety purposes and while he did not seem happy, he replied, "Let's just

get it over with.” Sgt. Martinez was consistent in his statement with PO Wadolowski in regards to the circumstances of the entry. When shown photos of the apartment taken by § 87(2)(b) he stated they depicted the “disheveled” state of § 87(2)(b)’s apartment at the time of the officers’ entry and reiterated that no other locations other than the drawer were searched.

§ 87(2)(b) signed the consent to search form at 10:25 a.m. with PO Wadolowski and PO Waller present [NYPD 07].

§ 87(2)(b) arrest stamp in the 32<sup>nd</sup> Precinct stationhouse Command Log for the incident date lists § 87(2)(b) address as § 87(2)(b) in New York [NYPD 11]. Upon reviewing the stamp, both PO Wadolowski and Sgt. Martinez assumed that might have been his old address and did not recall observing this address in any of the previous database checks for § 87(2)(b) [BR 29, 32].

Original video from Camera 7 captured the officers entry into the apartment [BR 12]. Several clips were generated to depict the various moments and arrival and departure of different officers [See IAs 196 – 203, BR 15 - 22].

According to People v. Gonzalez, 39 N.Y.2d 122, consent to search a premises is an exception to the warrant requirement to do so [BR 38]. Consent must be a true act of will and not a result of coercion. An important factor to evaluate the degree of voluntariness is whether a person granting consent is in police custody. In People v. Shakeem B., 55 Misc. 3d 47, officers were authorized in searching the defendant’s apartment pursuant to a written consent from his sister and a telephonic consent from his mother and the circumstances indicated that they had a reasonable authority over the apartment [BR 39].

§ 87(2)(g)

[REDACTED]

### **Civilian and Officer CCRB Histories**

- § 87(2)(b) has been party to two other CCRB complaints and has been named as a victim in two allegations [BR 40]:
  - § 87(2)(b) [REDACTED]
- This is the first CCRB complaint to which § 87(2)(b) has been a party [BR 40].





Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date